



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,354	04/07/2004	Zhi-Jian Yu	27580	8120

33357 7590 02/27/2006

ADVANCED MEDICAL OPTICS, INC.  
1700 E. ST. ANDREW PLACE  
SANTA ANA, CA 92705

EXAMINER
----------

DELCOTTO, GREGORY R

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/820,354

**Applicant(s)**

YU, ZHI-JIAN

**Examiner**

Gregory R. Del Cotto

**Art Unit**

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 23-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-05, 8-04</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

1. Claims 1-33 are pending.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22 and 33, drawn to a multi-purpose solution, classified in class 510, subclass 112.
- II. Claims 23-32, drawn to a method for maintaining ocular tissue cell membrane integrity during contact lens wear, classified in class 514, subclass 912.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are related as product and process of use.

The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, the composition of Group I can be used in a materially different process such as in a method of washing human hair.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 1751

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Nicole Bradley on February 7, 2006, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-22 and 33. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-32 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 1751

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by WO00/12661.

'661 teaches liquid cleaning compositions having a pH of from 7 to 14, suitable for cleaning hard-surfaces, comprising a homo or copolymer of vinylpyrrolidone, a polysaccharide polymer and a nonionic surfactant. See abstract. Typically, the

Art Unit: 1751

compositions contain from 0.1% to 20% by weight of the total composition of a nonionic surfactant. Suitable nonionic surfactants include the polyethylene oxide condensates of alkyl phenols, the condensation product of aliphatic alcohols having from 2 to 24 carbon atoms and 5 to 18 moles of ethylene oxide per mole, the condensation products of ethylene oxide with a hydrophobic base formed by the condensation of propylene oxide with propylene glycol under the tradename Pluronic, etc. See page 6, line 1 to page 8, line 10. Additionally, the compositions may contain a chelant, a buffer, a bactericide, a hydrotrope, etc. See page 19, lines 20-30. Additionally, the compositions may contain zwitterionic surfactants which provide excellent grease cleaning ability to the compositions. Suitable zwitterionic surfactants include alkyl amines such as those having one long chain and two short chains or hydrogen. See page 24, line 10 to page 27, line 20. Additionally, quaternary ammonium surfactants such as lauryl trimethyl ammonium bromide, etc., can be used in the compositions which may function as antimicrobial agents. See page 28, lines 5-20. The compositions may also contain polysaccharide polymers such as hydroxyethyl cellulose, hydroxypropyl cellulose, etc., which can be used in amounts from 0.01 to 5% by weight. See page 16, lines 1-20. Chelating agents may also be used in the compositions in amounts from 0.01 to 5% by weight and include HEDP, ATMP, etc. See page 38, lines 10-30.

Specifically, '661 teaches compositions containing 1.3% dobanol 91-8, 2% n-BPP, 3.5% citric acid, 0.1% polyvinylpyrrolidone, 0.3% xanthan gum, 1.5% sodium hydroxide, the balance water, wherein the pH of the compositions is 7 or above. See

page 46, line 10 to page 47, line 15. '661 discloses the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '661 anticipate the material limitations of the instant claims.

Claims 3, 4, 6, 9-16, 18, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/12661.

'661 do not teach, with sufficient specificity, a cleaning composition containing an alkylamine, nonionic surfactant, a buffer, viscosity inducing component, a chelating component, and a tonicity component in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a cleaning composition containing an alkylamine, nonionic surfactant, a buffer, viscosity inducing component, a chelating component, and a tonicity component in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '661 suggest a cleaning composition containing an alkylamine, nonionic surfactant, a buffer, viscosity inducing component, a chelating component, and a tonicity component in the specific proportions as recited by the instant claims.

Claim 1, 2, 4-10, 12-14, 16, 18-22, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Popp (US 2005/0095215).

Popp teaches a storage-stable topical pharmaceutical shampoo comprising about 0.5 to 8% by weight of an active ingredient, about 0.5 to 30% by weight of at least one surfactant, about 0.01 to 1% by weight of at least one chelating agent, and about 40 to 90% by weight of purified water. See paras. 13-19. Suitable nonionic surfactants include polyoxyethylene octylphenyl ether, etc. Suitable anionic surfactants include acyl taurines, etc. See para. 100-105. Suitable cationic surfactants include trimethyl ammonium chloride, dimethylbenzyl ammonium chloride, etc. These cationic surfactants may function as antimicrobial agents. See para. 104. Suitable chelating agents include EDTA, etc. See paras 107-109. Additionally, pH modifiers may be used in the compositions such as sodium hydroxide, citric acid, acetic acid, sodium citrate, etc. See paras. 112-113. Conditioning agents may also be used in the compositions in amounts from about 0.1 to about 5% by weight. Suitable conditioning agents include myristylamine, etc. See paras. 118. Thickeners may also be used in the compositions and include hydroxypropylcellulose, etc. See paras. 120-128. Additionally, ingredients such as inorganic salts, fragrances, dyes, etc., may be added to the composition. Note that, the Examiner that inorganic salts as taught by Popp would suggest well-known and conventionally used salts such as sodium chloride, potassium chloride, etc., which can be added to adjust viscosity.

Popp do not teach, with sufficient specificity, a cleaning composition containing an alkylamine, nonionic surfactant, a buffer, viscosity inducing component, a chelating component, and a tonicity component in the specific proportions as recited by the instant claims.



It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a cleaning composition containing an alkylamine, nonionic surfactant, a buffer, viscosity inducing component, a chelating component, and a tonicity component in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of Popp suggest a cleaning composition containing an alkylamine, nonionic surfactant, a buffer, viscosity inducing component, a chelating component, and a tonicity component in the specific proportions as recited by the instant claims.

Claims 1, 4, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gross et al (US 4,891,150).

Gross et al teach a cleansing and descaling agent which includes citric acid and thickeners. See Abstract. More specifically, Gross et al teach a cleansing and descaling agent consisting essentially of an organic carboxylic acid in aqueous solution and a thickener, wherein said organic carboxylic acid comprises citric acid in a quantity of between about 5% and 10% and wherein said thickener consists essentially of at least one member selected from the group consisting of from about 0.1 to about 10% of an alkyl alcohol ether sulfate, from about 0.1 to about 10% of an amphoteric surfactant, a combination of from about 0.1 to about 5% ethoxylated or propoxylated long chain alcohols with from about 0.1 to about 5% of at least one selected from the group consisting of ethoxylated amines, quaternary amines, or a combination of an amine oxide or alkoxyated amine oxide with an amine or alkoxyated amine. The composition

Art Unit: 1751

further comprises an inorganic, water-soluble salt as an additional thickener wherein the salt is sodium chloride, etc. See claims 1-12. Additionally, the compositions may contain a bactericide such as quaternary ammonium chloride. See column 6, lines 10-25. Specifically, Gross et al teach Examples containing mixtures of nonionic surfactants and amines as recited by the instant claims. See column 7, lines 1-55. Gross et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of Gross et al anticipate the material limitations of the instant claims.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/12661 as applied to claims 1-16, 18, 19, and 21 above, and further in view of Rees et al (US 6,162,371).

'661 is relied upon as set forth above. However, '661 do not teach the use of boric acid in addition to the other requisite components of the composition as recited by the instant claims.

Rees et al teach a stabilized acidic bleaching composition containing an aqueous solution of a source of unipositive chlorine ion, a chlorine stabilizing agent, and an acidic buffer to stabilize the pH of the bleaching composition. See Abstract. Additionally, the compositions may contain boric acid which has been found to significantly enhance the limescale removal efficacy of the acidic bleaching composition.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use boric acid in the cleaning composition taught by '661, with a reasonable expectation of success, because Rees et al teach that the use of boric acid

Art Unit: 1751

in a similar cleaning composition significantly enhances the limescalre removal efficiency.

***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.


Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory R. Del Cotto  
Primary Examiner  
Art Unit 1751

GRD  
February 21, 2006